

1 UNITED STATES OF AMERICA  
2 UNITED STATES DISTRICT COURT  
3 CENTRAL DISTRICT OF CALIFORNIA  
4 WESTERN DIVISION

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6 HONORABLE ANDRE BIROTTE, JR.  
7 UNITED STATES DISTRICT JUDGE PRESIDING  
8 - - -

9 PETER POPOV, )  
10 )  
11 PLAINTIFF, )  
12 )  
13 VS. ) CASE NO.:  
14 ) CV 23-9001-AB  
15 DEPARTMENT OF HOMELAND )  
16 SECURITY, )  
17 )  
18 DEFENDANT. )  
19 )  
20 )  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, MAY 17, 2024

LOS ANGELES, CALIFORNIA

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INDEX

PROCEEDINGS	PAGE
MOTION TO DISMISS OR	
IN THE ALTERNATIVE	
MOTION FOR SUMMARY JUDGMENT	4

1 LOS ANGELES, CALIFORNIA; FRIDAY, MAY 17, 2024; 3:15 P.M.

2 - - -

3 THE CLERK: Calling Civil Case 23-9001.

4 Popov versus Department of Homeland Security.

5 Counsel, please step forward and state your  
6 appearances.

7 MS. CRONIN: Good afternoon, Your Honor.  
8 Sarah Cronin on behalf of the Department of Homeland  
9 Security.

10 THE COURT: All right. Good afternoon.

11 MR. POPOV: Good afternoon, Your Honor.  
12 Peter Popov, the plaintiff.

13 THE COURT: Good afternoon, Mr. Popov.

14 Let me just pull up my file here. Bear with me one  
15 second, please or more than one second I should say.

16 I want to make sure procedurally we're all on the  
17 same page. Originally, I thought this was filed as a motion  
18 to dismiss, but through the pleadings, I think both parties  
19 agree, I think, that this can be considered in the  
20 alternative as a motion for summary judgment.

21 Am I correct, Ms. Cronin?

22 MS. CRONIN: Your Honor, we actually filed it as a  
23 motion to dismiss or in the alternative motion for summary  
24 judgment.

25 THE COURT: Got it. Okay. Thank you.

1 I've had a chance to look at the papers in this  
2 case. I have some questions and I think I'll start with  
3 Mr. Popov. So I guess, Mr. Popov the question I had was --  
4 I'm sorry. My computer is freezing. I just want to make  
5 sure I understand your position.

6 Are you contending the case involving Mr. Todorov,  
7 the fact that DHS granted his immigration application in  
8 light of the alleged improprieties of Mr. Todorov, are you  
9 saying that's an impropriety on the part of DHS in total or  
10 just an isolated case?

11 MR. POPOV: No, Your Honor.

12 THE COURT: I can't hear you. Perhaps go to the  
13 lectern where the microphone is closer.

14 MR. POPOV: Can you hear me now?

15 THE COURT: Yes, much better.

16 MR. POPOV: I'm sorry. Can you repeat the  
17 question?

18 THE COURT: Are you saying that the fact that DHS  
19 granted Mr. Todorov's application, are you saying that that  
20 is a systemic failure on behalf of DHS? Is that your  
21 position?

22 MR. POPOV: Yes, Your Honor. And the reason I'm  
23 saying this is because this is not individual case because  
24 it's in a process, it's took seven years. This is seven  
25 years consistently with Department of Homeland Security

1 closing its eyes. And this guy committed first his marriage  
2 is automatically void under the Nevada law. Automatically  
3 void means there is no marriage because he married his first  
4 cousin. And in addition, Class A felony.

5 THE COURT: Can I stop you for a second? You say  
6 if I heard you correctly, you say it's not an individual case  
7 because it took seven years, but you're still talking about  
8 Todorov's case; right?

9 MR. POPOV: Yes. Seven years, but many different  
10 departments, many different departments those years. In the  
11 end, he finally got authorization new citizenship just in  
12 55 days which is unheard after all those crimes committed,  
13 all those felonies. And the case law completely says  
14 because, uh, it's in a prolonged time, individual case is not  
15 individual case because shed light on the whole misconduct of  
16 the Department of Homeland Security.

17 THE COURT: But what's the evidence that it shed  
18 light on the whole misconduct of the agency? I mean, at best  
19 you're talking about what you believe to be a poor decision  
20 on behalf of DHS. But do you have evidence of other cases  
21 where this is going on?

22 MR. POPOV: I have this one case, but is going on  
23 for seven years and there's seven, eight felonies. Some of  
24 them life in prison and these guys continue to flourish and  
25 go through. His wife, even the current wife, his illegal

1 child married his first cousin, the same wife even she got  
2 her work permit and she's working as an attorney one block  
3 from here now after all this.

4 So the Department of Homeland Security is not even  
5 taking any measure. Three times the Fraud Department unit  
6 has been notified of this wrongdoing, of all those felonies.  
7 And this is more than unbelievable because I've been  
8 practicing immigration law for 30 years almost, 29, and I  
9 never seen something similar. I never heard something  
10 similar. I never read about something similar with my  
11 colleagues. For the smallest violation, you're out. You  
12 cannot get citizenship. You lose your green card. Even just  
13 to smoke one cigarette of marijuana.

14 And here we're talking about huge drug dealings.  
15 Everything is public. The wife's drug dealings are public.  
16 The fingerprints -- in those 50 days he became a citizen,  
17 they even didn't run the fingerprint check because all those  
18 will come up. And he is a tax fraud because he didn't report  
19 any of those millions of dollars those four years.

20 And the most important is the void marriage. He's  
21 not married to this person. And they continue to grant his  
22 wife work as an attorney just got a job. I just Google her.  
23 She got a job five months ago one block from here as  
24 associate attorney. She's not supposed to have a green card  
25 because the green card her husband got --

1           THE COURT: What does the wife's status have to do  
2 with Mr. Todorov's status?

3           MR. POPOV: Because this is kind of a fruit of a  
4 poisonous treat. The wrongdoing of Mr. Todorov continues  
5 even now because you're not supposed to get. If he  
6 doesn't have a valid marriage, he cannot get any benefits,  
7 but he got everything. It's automatically void. If you're  
8 not married, you cannot get a green card and then citizenship  
9 based on this married, but he got it. And this is not  
10 voidable so to go in court is automatically void based on the  
11 Nevada law so there is no marriage.

12           And this guy continue to get more benefits. His  
13 wife got, too. How can she get benefits when the green card  
14 of her husband should be void? Not only this, he got a  
15 citizenship.

16           THE COURT: So let me ask you another question. I  
17 think one of the lawsuits that you reference in your papers  
18 involves a cannabis company. But this is a company you both  
19 started together?

20           MR. POPOV: No, Your Honor. There's nothing to do  
21 with this. I am a partner to a company who bought property  
22 in Northern California and we lease this property to Todorov.  
23 That's it. He's supposed to pay rent. He stopped paying  
24 rent and we tried to evict him and then he filed this lawsuit  
25 to harass us, but the case was moved to Humboldt County and



1 we evict him a year-and-a-half ago. So I need this one  
2 because everything is his claim is his wife's. We've never  
3 been partners. He's just a tenant.

4 THE COURT: He's a tenant.

5 MR. POPOV: Yes. And all this credibility, the  
6 determination you have to do because all these allegations is  
7 to stop the eviction which is very usual. When you want to  
8 stop the eviction, you sue the landlord.

9 THE COURT: Right.

10 MR. POPOV: We need to do credibility  
11 determination. That's all how all this came up. I don't  
12 need to -- I don't need to file immigration benefit for my  
13 credibility because his credibility already I found so many  
14 things, so many felonies, it's completely destroyed. All I  
15 need is why the department didn't do anything and this is  
16 completely inappropriate.

17 THE COURT: So let me ask you cause I'm just  
18 struggling to understand. How does the release of  
19 Mr. Todorov's immigration records in this case shed light on  
20 the DHS's operations under the standard where you have to  
21 show a significant advancement of the public's understanding  
22 of their performance of their duties? How does getting these  
23 records show any of that?

24 MR. POPOV: Because the records will show how the  
25 Department of Homeland Security work from inside. Three

1 times all this felonies he's been reported to the Fraud  
2 Department of Department of Homeland Security. We have the  
3 proof. Now they claim their record doesn't show anything.  
4 And 55 days to be a citizen this is unheard of. People wait  
5 years to become citizens so something is going very rotten  
6 inside.

7 THE COURT: That would be one case; right?

8 MR. POPOV: It's one case, but this case because  
9 there's so many events happening during those seven years  
10 make it systematic. And the case law which I can cite right,  
11 very new case, a month ago from the District of Colombia.

12 THE COURT: I'm sorry. You said a very new case  
13 from the District of Colombia? Okay. If you could give me  
14 the name and the citation, please.

15 MR. POPOV: The case United for FBI Integrity  
16 versus Department of Justice. No. 22-CV-2885.

17 THE COURT: And is this an order from the court or  
18 a published opinion?

19 MR. POPOV: That's the opinion. The case is from  
20 March 6, 2024.

21 THE COURT: And tell me the name of the case. You  
22 said FBI Integrity?

23 MR. POPOV: United for FBI Integrity versus  
24 Department of Justice. And I can read that this opinion  
25 refers to long-standing probe that important questions about

1 how an agency enforces the law is a public interest. It does  
2 not acquire a showing and that can be advanced by a single  
3 case study. Because how otherwise we can see what the  
4 Department of Homeland Security is doing.

5 We don't have a power, people like me. It's luck  
6 that we got this case to see all this misconduct because the  
7 Department of Homeland Security is shielding himself. They  
8 are shielding their -- you cannot get to them. They don't  
9 answer even the fraud line which is online. They don't  
10 even -- they cannot talk to person. You cannot touch even  
11 evidence. It is just a tip line. You can explain and no one  
12 contacts you.

13 They have to mail a certified receipt you get, but  
14 no one contact you. That's not how the system should work  
15 because this is modern -- this threat to the national  
16 security. If criminal like this can get all these benefits  
17 for seven years with so many tips and knowing, terrorists can  
18 do the same. And the path to be U.S. citizen is very strong  
19 and resulting to be legal at the border. It is a different  
20 thing if you are a citizen because you have all the benefits  
21 and you can do very bad things. What is going on?

22 The same individual, I'm hearing around because my  
23 community is not that big, now it's a big drug dealer  
24 importing wholesaler from Northern California shipping to  
25 Los Angeles. And no one even stop him because he has

1 American passport.

2 THE COURT: Let me switch over to defense counsel.  
3 Ms. Cronin, I have some questions for you. I guess starting  
4 with what Mr. Popov just said about this case, I haven't read  
5 it obviously, but the premise is it suggests that a single  
6 case can satisfy, if you will, the standard that would  
7 justify moving forward with the case.

8 What's your response?

9 MS. CRONIN: Yes, Your Honor.

10 I have not read that case either or heard that  
11 cite, but the 9th Circuit has had the opportunity to address  
12 the situation where you have a single file being requested  
13 through a FOIA request. In the Hunt versus FBI case, the  
14 reasoning for Exemption 6 applying and the court saying we're  
15 not gonna give you the files because in part it was an  
16 isolated case. It was a single FBI being requested. The  
17 only public -- there was no public interest. It was just the  
18 individual's interest requesting the file.

19 And that's the same as the 9th Circuit's decision  
20 in Burton v. Wolf. While that's an unpublished case, it's  
21 very factually similar to this case. And the court again  
22 reasoned in an isolated case that doesn't meet the public  
23 interest requirement.

24 THE COURT: Would any -- what would be an example  
25 where you would meet the public interest requirement?

1 Mr. Popov is saying look, it's seven years of misdeeds and  
2 missteps he alleges from DHS. If that doesn't show that  
3 there's a systemic problem, what could?

4 MS. CRONIN: I don't know a specific situation that  
5 would show that, but I do know in the briefing the plaintiff  
6 did cite the Muchnick case which is a district court case so  
7 not binding out of the Northern District of California. In  
8 that case you had someone who was a very widely known public  
9 figure to a certain extent. He was the coach of the Irish  
10 swim team. He immigrated over and at the time he immigrated  
11 over, it was publicly known -- so we know the facts.

12 That was an instance where the court did look at a  
13 single file, but found there was no privacy interest in those  
14 allegations because they were publicly known. And the second  
15 prong, there had been a showing of evidence of potential  
16 impropriety by the government because they were publicly  
17 known, there was something there.

18 Whereas here all we have allegations about an  
19 unknown individual that we have another individual making and  
20 trying to get an immigration file. There's never been a case  
21 where a court said that would be enough to get over  
22 Exemption 6 that we're aware of.

23 THE COURT: Okay. Procedurally, you raise the  
24 issue about the cross-motion for summary judgment. I just  
25 want to make sure I understand your position. Is it you have

1 notice or what?

2 MS. CRONIN: I think why we did it as a motion to  
3 dismiss or in the alternative summary judgment motion is that  
4 the question --

5 THE COURT: I mean you filed your motion. Then  
6 Mr. Popov tried to file a cross-motion. You say he didn't  
7 seek leave from court to do that, um, and didn't meet and  
8 confer. So are you saying we shouldn't consider it or what?

9 MS. CRONIN: We don't think Your Honor should  
10 consider the cross-motion for summary judgment; however, our  
11 pending motion to dismiss and cross-motion for summary  
12 judgment is on the same issues.

13 THE COURT: All right. So there really is no  
14 prejudice, is there?

15 MS. CRONIN: There is no prejudice, Your Honor.

16 THE COURT: So it is more procedural. And I don't  
17 mean to minimize it, but the fact he didn't seek leave,  
18 didn't meet and confer. But the issues -- it's not like  
19 you're caught by surprise or there's some issues left hanging  
20 that you feel at a disadvantage because he filed it.

21 MS. CRONIN: It's correct, Your Honor, that there  
22 were no new issues raised.

23 THE COURT: Fair enough.

24 What about in the papers, in the plaintiff's papers  
25 he says well, look, at a minimum, you should be required to

1 file redacted copies of these records with a Vaughn Index. I  
2 don't think you addressed it in your reply. I'm just  
3 wondering what your position is with respect to that.

4 MS. CRONIN: Sure. So our position would be  
5 because our position is the Department's initial  
6 determination that these documents are exempted from FOIA,  
7 you wouldn't file a Vaughn Index in that instance cause  
8 there's no production being made or really withheld. It's  
9 just saying -- the Department's position is we're not saying  
10 actually even any of these documents necessarily exist. Just  
11 to the extent they did exist, they wouldn't be subject to  
12 FOIA because of the Exemption 6.

13 THE COURT: Got it. Those are all the questions I  
14 have. Mr. Popov, anything else you wish to state at this  
15 time?

16 MR. POPOV: Can I reply?

17 THE COURT: Yes.

18 MR. POPOV: About the individual file, individual  
19 file, you know, Muchnick case which actually published  
20 clearly said it's not like, uh, the defendant is saying.  
21 This case is not about something that everybody knows. No.  
22 The person who is looking for the file of the individual just  
23 want to see how come somebody who is accused of sexual  
24 crimes, how come the Department of Homeland Security grant  
25 him green card? All those allegations are public, but they

1 want to know in fact and the court granted the FOIA.

2 Also, in the same case, there is completely,  
3 exactly says, it says quote, "Although the information in  
4 Muchnick attack solely on one individual, much of it shed  
5 light on multiple decision by multiple Department of Homeland  
6 Security personnel." So it clearly says that -- the case is  
7 published in Northern District so it's still in California.

8 It clearly says that individual file when there's  
9 so many multiple agency is not any more individual and that's  
10 why they ordered the file to be released.

11 And in this case, if this guy even was not  
12 convicted and even sexual crimes without conviction are not  
13 ground for deportation or for exclusion. And in this case,  
14 in my case, this is just very few incidents. One incident,  
15 one green card and one temporary green card. Here in this  
16 case seven years so many different failures of whatever part  
17 they are. So my case is hundred percent stronger than  
18 Muchnick and they granted the file.

19 THE COURT: All right. Thank you, Mr. Popov. I  
20 appreciate it.

21 Do you wish to say something in response?

22 MS. CRONIN: Yes, Your Honor. I'll quickly point  
23 out in the Muchnick case, if you skip to the conclusion, the  
24 court ordered the information that was already publicly known  
25 to be disclosed by the agency not the addresses and



1 information that was not publicly known.

2 THE COURT: Not the addresses and information.

3 Okay. So your point is that basically, it was much ado about  
4 nothing because all that got disclosed was what was already  
5 in the public record.

6 MS. CRONIN: Correct, Your Honor.

7 THE COURT: Okay. Thank you.

8 MR. POPOV: Say one second word?

9 THE COURT: Okay, go ahead.

10 MR. POPOV: In the case of Todorov, I'm not seeking  
11 only his addresses. I'm seeking all the applications whether  
12 he admitted that what he's working.

13 THE COURT: You want the whole file.

14 MR. POPOV: The whole file. The addresses we  
15 already know the addresses.

16 THE COURT: You want the information that DHS  
17 considered to ascertain or in your view to show that they  
18 turned a blind eye to clear red flags that should have caused  
19 his application to be denied.

20 MR. POPOV: Exactly. And especially during the  
21 authorization interview in those 55 days, did they run the  
22 security check which is mandatory? When they discover it,  
23 why didn't discover, and all these kind of stuff. Figure out  
24 how a person can cheat the system for so long seven years.  
25 That's really the public needs to know and it's gonna help

1 the Department of Homeland Security fix itself of this  
2 security threat.

3 THE COURT: All right. Thank you both. I  
4 appreciate the argument. I'm gonna take some time to think  
5 about this, look at the cases in light of the argument. So  
6 the matter will remain under submission until the Court  
7 issues its final order.

8 Thank you all for your time. Thank you for your  
9 patience. I think you heard earlier why I was late.

10 Have a good weekend and be safe.

11 (Proceedings were concluded at 3:38 p.m.)  
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CERTIFICATE OF REPORTER

COUNTY OF LOS ANGELES )  
 ) SS.  
STATE OF CALIFORNIA )

I, LAURA ELIAS, OFFICIAL REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT I REPORTED, STENOGRAPHICALLY, THE FOREGOING PROCEEDINGS AT THE TIME AND PLACE HEREINBEFORE SET FORTH; THAT THE SAME WAS THEREAFTER REDUCED TO TYPEWRITTEN FORM BY MEANS OF COMPUTER-AIDED TRANSCRIPTION; AND I DO FURTHER CERTIFY THAT THIS IS A TRUE AND CORRECT TRANSCRIPTION OF MY STENOGRAPHIC NOTES.

DATE: OCTOBER 30, 2024

/s/ LAURA MILLER ELIAS

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FEDERAL OFFICIAL COURT REPORTER